BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE
MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Application of Great River Energy, Northern States Power Company (d/b/a/ Xcel Energy) and others for Certificates of Need for the Cap X 345-kV Transmission Projects	OAH Docket No. 15-2500-19350-2 PUC Docket No. CN-06-1115

OFFER OF PROOF

regarding

SHARPLY DECREASED ELECTRICITY USAGE

NoCapX 2020 made a Motion to Reopen the Hearing after a Wall Street Journal was published with Xcel's CEO Dick Kelly stating that electrical use had sharply fallen. The Motion was denied, with this option presented to NoCapX:

> NoCapX may file an offer of proof if it has newly obtained evidence that calls into question the Applicants' peak demand forecasting. The offer of proof will be included in the record and forwarded to the Commission in the event that it chooses to review it.

Order, December 10, 2008, Order Point 2.

NoCapX 2020 makes this Offer of Proof for inclusion in the record, to be forwarded to the Commission in the event that it chooses to review it.

The CapX 2020 Certificate of Need docket is all about need, different types of need, and whether there is sufficient need to justify a large investment in infrastructure. Significant new information regarding decreased energy use has been disclosed by Xcel that has a direct impact on the need for CapX 2020. That information is that electric demand has decreased significantly, to such an extent that utility CEOs publicly disclosed the decrease and are questioning infrastructure investments. If the decrease is that significant, if utility CEOs are questioning infrastructure investments, then it would behoove the Commission to take the time and make the effort to secure updated forecasts based on these new

developments. As a basis for need for the line, CapX 2020 claims that many thousands of megawatts of increased capacity are needed by the year 2020 in the region studied by CapX 2020, and decreased consumption will alter the timeline and perhaps completely obviate the need for increased capacity.

An article in the Wall Street Journal, "Surprise Drop in Power Use Delivers Jolt to Utilities" was published, reporting on a significant drop in overall energy use, and in residential, ranging from 3% to 9%, rather than typical increases of from 1-2%. Exhibit A, "Surprise Drop in Power Use Delivers Jolt to Utilities," November 21, 2008.[1]

> Dick Kelly, chief executive of Xcel Energy Inc., Minneapolis, says his company, which has utilities in Colorado and Minnesota, saw home-energy use drop 3% in the period from August through September, "the first time in 40 years I've seen a decline in sales" to homes.

Id. A 3% drop, rather than a 1-2% increase is a change of 4-5%.

Other documents released since the end of the CapX 2020 hearing substantiate this decrease in demand and therefore lessening of "need" for CapX 2020.

> *The data are early and incomplete, but if the trend persists, it could ripple through companies' earnings and compel major changes in the way utilities run their businesses. Utilities are expected to invest $1.5 trillion to $2 trillion by 2030 to modernize their electric systems and meet future needs, according to an industry-funded study by the Brattle Group. However, if electricity demand is flat or even declining, utilities must either make significant adjustments to their investment plans or run the risk of building too much capacity. That could end up burdening customers and shareholders with needless expenses.*
> ...
> *Michael Morris, the chief executive of AEP, one of the country's largest utilities, says he thinks the industry should to be wary about breaking ground on expensive new projects. "The message is: be cautious about what you build because you may not have the demand" to justify the expense, he says.*
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> Id.

Without Discovery, it is impossible to know the full extent of the drop in power use, but Xcel's Investor Relations Earnings Release 2008 Year End Summary[2], issued January 29, 2009 and unavailable at the time of the CapX 2020 hearing, clearly discloses the drop on demand:

> During 2008, we experienced flat electric residential sales, primarily driven by a decline in the NSP-Minnesota region. We believe the flat sales growth is a reflection of a recent shift

[1] Attached as Exhibit A, and available online: http://online.wsj.com/article/SB122722654497346099.html

[2] Attached as Exhibit B is Xcel's Investor Relations Earnings Release 2008 Year End Summary ; available on line at http://library.corporate-ir.net/library/89/894/89458/items/321993/B011C9EA-D7B1-4723-8326-4595336D24B6_Q408-Release_0209.pdf

> in customer behavior, in part, attributable to the overall economic conditions as well as conservation efforts.

2008 Year End Summary, p. 5. Electric residential sales, actual, were at -2% for 2008, normalized to 0.0%. Id. A flat rate would alter the size, type and timing of any forecasted need.

Like Xcel, Otter Tail Power is not needing its generation for service of local load, and instead has greatly increased its wholesale sales. Otter Tail Powers Year End Report, not available at the time of the CapX 2020 hearing, reflects increased reliance on whole market transactions:

> Wholesale electric energy kilowatt-hour (kWh) sales were 38.7% of total kWh sales for 2008 and 28.6% for 2007. Wholesale electric energy kWh sales increased by 62.7% between the years while revenue per kWh increased by 3.0%. Activity in the short-term energy market is subject to change based on a number of factors and it is difficult to predict the quantity of wholesale power sales or prices for wholesale power in the future.

Exhibit C, Otter Tail Corporation 4th Quarter 2009 10K, p. 4[3]. Transmission and wholesale sales now are 35% of electric revenues. Id. p. 9.

Across the board, demand for electricity is down significantly. At the time of the hearing, reports were not yet available that documented this trend. According to the most recent report of the Office of Energy Information, Electric Power Monthly, issued February 13, 2009, covering through November, 2008, showing that retail sales of electricity, measured in millions of kilowatthours, for November 2008 was at 279,623, down from 286,299 in 2007.[4]

> **Generation:** Net generation in the United States dropped by 0.9 percent from November 2007 to November 2008. This was the fourth consecutive month that net generation was down compared to the same calendar month in 2007. The Commerce Department reported that real gross domestic product decreased from the third quarter to the fourth quarter of 2008, and reflecting this decline, total industrial production in November 2008 as reported by the Federal Reserve was 5.5 percent lower than it had been in November 2007, the fifth consecutive month that same-month industrial production in 2008 declined from 2007. Weather conditions were consistent with the lower generation level as well.

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[3] Exhibit C, Otter Tail Corporation 4th Quarter 2009 10K, p. 4; available online at http://www.ottertail.com/investors/sec.cfm

[4] Exhibit D, Electric Power Monthly, Chapter 5. Retail Sales, Revenue, and Average Retail Price of Electricity 5.1 Retail Sales of Electricity to Ultimate Customers: Total by End-Use Sector html. Online at: http://www.eia.doe.gov/cneaf/electricity/epm/epm_sum.html ; see also http://www.eia.doe.gov/emeu/steo/pub/dec08_tables.pdf

Id., p. 1.

Additional examples of decreased need, not available at the time of the hearing, of decreasing or flat demand, increased wholesale transactions, and ample supply of electricity are reflected in the reserve margins shown in the latest North American Electric Reliability Council's Reliability Assessment, released in October, 2008, and unavailable at the time of the CapX 2020 hearing.[5] Exhibit E, p. 68-73, NERC 2008 Reliability Assessment. The reserve margins for the Midwest's MRO region, which includes Minnesota and the rest of the CapX 2020 study region, are sufficient, and in fact double or triple what isnecessary -- there is no electrical shortage predicted. This is contrary to the "need" claims of the CapX 2020 applicants. Id, p. 68-73.

MRO Reserve Margin (NERC reference level)	Table p. 73-38	Total Potential Resources Margin
13%	13a – 2008 Summer Margins	14.7%
13%	13b – 2008-09 Winter Margins	25.4%
13%	13c – 2012 Summer Margins	26.6%
13%	13d – 2012-13 Winter Margins	37.6%
13%	13e – 2017 Summer Margins	25.6%
13%	13f – 2017/18 Winter Margins	37.3%

Rather than an electric shortage, as forecasted by CapX 2020 in its application and throughout the hearing, the NERC Reliability Assessment predicts a surplus of generation, two to three times the reserve margin required by NERC.

The need for CapX 2020, as presented by the Applicants, is dependent on an increase in energy use, which is not manifesting as forecasted. What has become apparent in many documents since the hearing is that there is a significant decline in energy use, which has an impact on the need for the CapX projects. Where energy use departs so dramatically from that forecasted, such that industry CEOs are shocked and puzzled, more information is necessary for a sufficient record on which a decision can be

[5] Exhibit E, NERC 2008 Reliability Assessment, released October 2008 (selected pages), available online at http://www.nerc.com/files/LTRA2008.pdf

made on a $1.7 billion dollar project. The fact of this decrease in energy use renders the current record inadequate to support a decision.

The above information contained in this Offer of Proof is representative of information not available at the time of the CapX 2020 hearing that should be included in the CapX 2020 Certificate of Need record for consideration by the Commission. This newly available information has thus far been excluded. At this time, NoCapX 2020 requests that this Offer of Proof be included in the record and forwarded to the Public Utilities Commission for consideration, as provided by the Order of Judge Heydinger of December 10, 2008.

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Carol A. Overland #254617
Attorney at Law
OVERLAND LAW OFFICE
P.O. Box 176
Red Wing, MN 55066
(612) 227-8638
overland@legalectric.org